IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.4210-M of 2007

DATE OF DECISION: FEBRUARY 20, 2007

Pawan @ Pawan Kumar @ Bharu

...PETITIONER

VERSUS

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.S.S.Rangi, Advocate,
for the petitioner.
Mr.N.S.Gill, AAG, Punjab.

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Petitioner Pawan @ Pawan Kumar @ Bharu has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 125 dated 25.6.2005 registered under Sections 302/452/460/34 IPC and Section 25 of the Arms Act at Police Station Mandi Gobindgarh District Fatehgarh Sahib.

I have heard the counsel for the parties and gone through the contents of the FIR.

In this case, the aforesaid FIR was registered on the statement of the proprietor of M/s. Naket Steel Industries alleging therein that on 24/25.6.2005, two watchmen, namely, Rajesh Kumar Yadav and Santosh Kumar Mishra, and one Chowkidar Deepak Kumar Thakur, were guarding the factory premises. The Chowkidar Deepak Kumar Thakur informed him at night about 3.00 a.m. on telephone that 3-4 unknown persons entered into the godown of the factory by scaling over the walls and one of them fired in the chest of Rajesh Kumar Yadav with intention to kill him and thereafter they ran away by scaling over the walls. He immediately went to the godown and took the injured Rajesh Kumar Yadav to the Civil Hospital where he was declared as dead.

During the investigation, two accused, namely, Rahul Kumar alias Mani and Toney were arrested on 2.7.2005 in connection with the

alleged offence. The petitioner and co-accused Sewak alias Totri were arrested on 7.7.2005. During the investigation, it revealed that Rahul Kumar fired from his pistol which hit Rajesh kumar Yadav, Watchman and Toney accused gave a dagger blow to him. As far as the petitioner is concerned, he was having a rod in his hand, but he did not cause any injury to the deceased, though from his disclosure statement, the alleged rod has been recovered. The co-accused Sewak alias Totri, who was also found present at the time of occurrence and who also did not cause any injury, has been granted regular bail by this Court vide order dated December 4, 2006 passed in Crl.Misc.No.59049-M of 2006.

In view of the aforesaid facts, counsel for the petitioner contends that the petitioner is in custody since 7.7.2005 and similarly situated co-accused Sewak alias Totri has already been granted regular bail by this Court, therefore, he prays that the petitioner also deserves to be released on bail.

The factual position, as stated above, has not been controverted by the State counsel. It is also not the case of the counsel for the respondent-State that in case the petitioner is released on bail, he is likely to tamper with the prosecution evidence or cause any sort of interference in the fair trial.

In view of the above and keeping in view the role of the petitioner in the alleged occurrence; the similarly situated co-accused has been granted regular bail; the petitioner is in custody since 7.7.2005 and trial is not going to conclude soon, without expressing any opinion on the merits of the case, I deem it appropriate to grant regular bail to the petitioner, and he is accordingly ordered to be released on bail to the satisfaction of the trial Court.

February 20, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE